


FILED

DEC - 9 2013

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN AYERS,
Plaintiff,

No. C 13-04428 HRL (PR)

ORDER OF DISMISSAL

v.

J. D. LOZANO, et al.,
Defendants.

/ (Docket No. 6)

On September 24, 2013, Plaintiff, a state prisoner proceeding pro se, filed a civil rights complaint pursuant to 42 U.S.C. § 1983, and a motion to proceed in forma pauperis. (Docket Nos. 1 & 2.) On November 12, 2013, this Court granted Plaintiff's motion to proceed in forma pauperis and directed that the funds be taken from income in Plaintiff's account in accordance with 28 U.S.C. § 1915(B)(1). (Docket No. 5.) Plaintiff has filed a request for dismissal of the complaint. (Docket No. 6.) Plaintiff may voluntarily dismiss his complaint without an order of this Court upon filing of "a notice of dismissal before the opposing party serves either an answer or motion for summary judgment." See Fed. R. Civ. P. 41(a)(1)(A). Because no opposing party has been served, Plaintiff's request for dismissal is construed as a "notice of dismissal."

1 Accordingly, the motion is **GRANTED** and this action is **DISMISSED**. Plaintiff is
2 advised that he remains responsible for the balance of the filing fee due to the Court. The
3 Clerk of the court shall terminate all pending motions and deadlines and close the file.

4
5 DATED: _____

12/9/13



HOWARD R. LLOYD
United States Magistrate Judge